

ANALYSIS OF AMENDED BILL

Franchise Tax Board

Author: Burton Analyst: Marion Mann DeJong Bill Number: SB 1064
Related Bills: See Legislative History Telephone: 845-6979 Amended Date: 09/12/2003
Attorney: Patrick Kusiak Sponsor: _____

SUBJECT: Sales & Use Tax Claims for Refund Clarifying Changes

SUMMARY

This bill would clarify the requirements for a taxpayer to request a refund from the State Board of Equalization (BOE) of sales tax paid in-lieu of taking the Manufacturers' Investment Credit (MIC) on an income tax return.

SUMMARY OF AMENDMENTS

The September 5, 2003, amendments deleted the provisions of the bill related to limited liability companies and replaced them with the provision summarized above and a BOE vote requirement. The September 8, 2003, amendments made clarifying changes. The September 9, 2003, amendments modified the effective date. The September 12, 2003, amendments deleted the BOE vote requirement provision and modified the operative date. This analysis replaces the department's previous analyses of this bill.

PURPOSE OF THE BILL

The purpose of this bill appears to be to clarify the law regarding sales taxes refunded in lieu of the taxpayer claiming the MIC.

EFFECTIVE/OPERATIVE DATE

This bill would become effective on January 1, 2004. However, the bill specifies that the changes are declaratory of existing law, but effective for claims filed with the BOE on or after August 7, 2003.

POSITION

Pending.

ANALYSIS

STATE LAW

The Sales and Use Tax Law (Section 6377) provides a 5% state sales and use tax exemption for purchases of manufacturing equipment by "qualified persons." Qualified persons are generally new trades or businesses engaged in specified manufacturing activities classified in the Standard Industrial Classification (SIC) Manual, 1987 edition.

The Personal Income Tax and Corporation Tax Laws (Section 17053.59 and Section 23649) provide a 6% tax credit on similar property to businesses that do not qualify for the sales tax exemption, or decide to take the tax credit rather than the sales tax exemption. This credit is known as the MIC.

Board Position:

<input type="checkbox"/> S	<input type="checkbox"/> NA	<input type="checkbox"/> NP
<input type="checkbox"/> SA	<input type="checkbox"/> O	<input type="checkbox"/> NAR
<input type="checkbox"/> N	<input type="checkbox"/> OUA	<input checked="" type="checkbox"/> PENDING

Department Director

Date

John Davies for Gerald H. Goldberg 9/22/03

The Sales and Use Tax Law (Section 6902.2) permits a taxpayer to claim a sales tax refund in-lieu of the MIC:

- Not earlier than the MIC could have been claimed as a credit on an income tax return, and
- In an amount not exceeding the amount of the MIC that could have been claimed by the taxpayer as a credit

THIS BILL

This bill clarifies that a taxpayer may not request a sales tax refund, in lieu of the MIC, in excess of the amount of the MIC that could be applied to reduce the tax (or net tax) after first applying all other credits. It states that a MIC carryover credit may not be refunded until the year the MIC carryover can be applied to reduce the tax (or net tax).

IMPLEMENTATION CONSIDERATIONS

This bill would not impact the department's programs and operations.

LEGISLATIVE HISTORY

SB 1811 (Hurt, Stats. 1994, Ch. 547) added the sales tax refund in-lieu of the MIC to current law.

OTHER STATES' INFORMATION

The states researched were *Florida, Illinois, Massachusetts, Michigan, Minnesota, and New York*. These states were selected due to their similarities to California's economy, business entity types, and tax laws. Although *Illinois, Massachusetts, Michigan, and New York* provide a type of manufacturing income tax credit it did not appear that these states provide a sales tax refund in lieu of the credit. Consequently, a comparison to the laws of other states is not applicable for this provision.

FISCAL IMPACT

This bill would not impact the department's costs.

ECONOMIC IMPACT

This bill is declaratory of existing law.

LEGISLATIVE STAFF CONTACT

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